

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

<p>CHAD STANBRO,</p> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">-against-</p> <p>CORRECTION OFFICER NADYA PALOU, CORRECTION OFFICER RAYMOND DEAL, CORRECTION OFFICER KRISTOFER LEONARDO, CORRECTION OFFICER RICHARD LANDRY, CORRECTION NURSE GARY PAGLIARO and CORRECTION SERGEANT ENRIQUE TORRES,</p> <p style="text-align: right;">Defendants</p>	<p>Case No.: 7:20-cv-01591-KMK</p> <p style="text-align: center;"><b><u>ANSWER TO AMENDED COMPLAINT</u></b></p>
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Defendant RAYMOND DEAL, by his attorneys Ofeck & Heinze, LLP, for his Answer to the Amended Complaint, says:

**THE PARTIES AND JURISDICTION**

1. Defendant lacks sufficient knowledge to admit or deny.
2. Upon information and belief, admitted.
3. Defendant lacks sufficient knowledge to admit or deny.
4. Upon information and belief, admitted as to defendant's employment with DOCCS and defendant otherwise lacks sufficient knowledge to admit or deny.
5. Upon information and belief, admitted as to defendant's employment with DOCCS and defendant otherwise lacks sufficient knowledge to admit or deny.
6. Upon information and belief, admitted as to defendant's employment with DOCCS and defendant otherwise lacks sufficient knowledge to admit or deny.
7. (and 7a) Defendant lacks sufficient knowledge to admit or deny.
8. Admitted.

9. Admitted.
10. Admitted to the extent that defendant Deal acted at all times within the scope of his authority and duties, and in the course of his employment, and that he committed no act or omission that constitutes any harm or wrong, including that alleged or as may be alleged by plaintiff, and otherwise denied.
11. (and 11a.) Admitted to the extent that defendant Deal acted at all times within the scope of his authority and duties, and in the course of his employment, and that he committed no act or omission that constitutes any harm or wrong, including that alleged or as may be alleged by plaintiff, and otherwise denied.
12. Upon information and belief, admitted as to defendant's employment with DOCCS and defendant otherwise lacks sufficient knowledge to admit or deny.
13. Upon information and belief, admitted.
14. Defendant lacks sufficient knowledge to admit or deny
15. (and 15a) Defendant lacks sufficient knowledge to admit or deny.
16. Upon information and belief, admitted as to defendant's employment with DOCCS and defendant otherwise lacks sufficient knowledge to admit or deny.
17. Upon information and belief, admitted.
18. Defendant lacks sufficient knowledge to admit or deny.
19. (and 19a) Defendant lacks sufficient knowledge to admit or deny.
20. Defendant lacks sufficient knowledge to admit or deny.
21. Defendant lacks sufficient knowledge to admit or deny.
22. Defendant lacks sufficient knowledge to admit or deny.
23. (and 23a). Defendant lacks sufficient knowledge to admit or deny.

- 24. Upon information and belief, admitted.
- 25. Upon information and belief, admitted.
- 26. Defendant lacks sufficient knowledge to admit or deny.
- 27. (and 27a) Defendant lacks sufficient knowledge to admit or deny.
- 28. Defendant lacks sufficient knowledge to admit or deny.

**FACTS**

- 29. Defendant repeats the foregoing responses and allegations as if set forth verbatim herein.
- 30. Defendant lacks sufficient knowledge to admit or deny, but denies knowledge of any grievance of the plaintiff and denies any underlying allegations as may relate to defendant.
- 31. Defendant lacks sufficient knowledge to admit or deny, but denies knowledge of any grievance of the plaintiff and denies any underlying allegations as may relate to defendant.
- 32. Admitted generally that defendant Deal accompanied the plaintiff to his medical appointment, but denies specific knowledge of the procedure involved, and otherwise denied.
- 33. Admitted generally that plaintiff was in the custody of the DOCCS and otherwise denied.
- 34. Defendant lacks sufficient knowledge to admit or deny.
- 35. Admitted generally that plaintiff was in the custody of the DOCCS and otherwise denied.

36. Admitted generally that plaintiff was in the custody of the DOCCS, and that defendant properly performed all duties in connection therewith, and otherwise denied.
37. Admitted that plaintiff began to act in a violent and agitated manner, placing persons and property in extreme jeopardy, and defendant otherwise lacks sufficient knowledge to admit or deny.
38. Denied.
39. Denied.
40. Denied.
41. Denied.
42. Denied.
43. Denied.
44. Denied.
45. Denied.
46. Defendant denies knowledge of the alleged facts and incidents.
47. Defendant denies knowledge of the alleged facts and incidents.
48. Defendant denies knowledge of the alleged facts and incidents.
49. Defendant denies knowledge of the alleged facts and incidents.
50. Defendant denies knowledge of the alleged facts and incidents.
51. Defendant denies knowledge of the alleged facts and incidents.
52. Denied.
53. Denied.
54. Denied.

55. Denied.

56. Denied.

57. Denied.

58. Denied.

59. Denied.

**FIRST CAUSE OF ACTION**

60. Defendant repeats each of the foregoing responses as if set forth verbatim herein.

61. Denied.

**SECOND CAUSE OF ACTION**

62. Defendant repeat each of the foregoing responses as if set forth verbatim herein.

63. Denied.

**THIRD CAUSE OF ACTION**

64. Defendant repeats each of the foregoing responses as if set forth verbatim herein.

65. Denied.

**FOURTH CAUSE OF ACTION**

66. Defendant repeats each of the foregoing responses as if set forth verbatim herein.

67. Denied.

**FIFTH CAUSE OF ACTION**

68. Defendants repeat each of the foregoing responses as if set forth verbatim herein.

69. Denied.

70. Denied.

**AFFIRMATIVE DEFENSES**

71. Plaintiff's claims for damages are remote and speculative.

72. Plaintiff failed to mitigate his alleged damages
73. Plaintiff assumed the known risk of injury, including (without limitation) such risks normally attendant to medical procedures and anesthesia, and adverse reactions thereto.
74. The defendant owes no duty or legal obligation to plaintiff.
75. The defendant acted at all times as agent for his disclosed principal.
76. The defendant did not act with the required intent, mens rea, or willfulness.
77. Plaintiff's claims are premature and barred by virtue of his failure to make a Notice of Claim or other required demand.
78. Plaintiff's alleged First Amendment statements did not touch upon or involve matters of public concern.
79. The recovery of the plaintiffs, if any, must be reduced by the amount received from or indemnified by any collateral source.
80. Plaintiff's alleged damages are the result of acts or omissions committed by non-parties to this action over whom the Defendant has no responsibility or control.
81. Plaintiff's alleged damages are the result of acts of omission committed by the Plaintiff.
82. Defendant's actions (if any) were justified as being in defense of others or of property.
83. The Eleventh Amendment bars Plaintiff's claims for damages against the defendant to the extent brought against them in their official capacities
84. Defendant is entitled to qualified immunity for the claims asserted, since defendant's conduct (if any) did not violate clearly established law or it was

objectively reasonable for him to believe that his conduct did not violate clearly established law.

85. The Prison Litigation Reform Act of 1995 may bar Plaintiff's claims in whole or in part, including (without limitation) due to plaintiff's failure to exhaust his administrative remedies.
86. Any state law claims are barred by New York Corrections Law § 24.
87. The defendant at no time acted recklessly, willfully or maliciously in disregard of plaintiff's constitutional rights, and therefore plaintiff is not entitled to punitive damages.
88. Defendant reserves their right to seek contribution from other nonparty tortfeasors pursuant to any other applicable statute or article.
89. If it is determined that the defendant is liable in any degree to Plaintiff, he is entitled to have the liability apportioned among and between all defendants in this action.

#### **ANSWER TO CROSS-CLAIMS**

90. The allegations of any cross-claims are denied in their entirety.
91. Defendant's Affirmative Defenses to the Complaint are asserted as to any cross-claims.

WHEREFORE, defendants demand judgment against plaintiff dismissing the Complaint, in its entirety, with prejudice, and awarding costs and attorneys fees as allowed by law, interest, or, in the alternative, judgment for indemnification, contribution, allocation of their proportionate share of liability as may be determined in

this action, dismissing all other defendants' cross-claims and such other and further relief as the Court deems equitable and just.

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***PLEASE CORRESPOND WITH OUR  
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**PROOF OF SERVICE**

On October 23, 2020, I served the within Answer on counsel for all parties via ECF.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on October 23, 2020

Mark F. Heinze  
Mark F. Heinze

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